

THE STATE OF UTAH

OFFICE OF STATE ENGINEER

SALT LAKE CITY

July 16, 1937

T. H. HUMPHERYS

STATE ENGINEER

REL: COAL CREEK DISTRIBUTION

Memorandum for Office Study only, by F. W. COTTRELL

On July 15, while in Cedar City, Mr. J. L. Hornbuckle, on noticing the State Engineer's seal on the automobile being used, asked that I visit the old flour mill approximately one mile above Cedar City, the water right for which, he and others had purchased for the purpose of operating a plaster mill.

The mill was visited in company with Mr. Hornbuckle, and Mr. S. W. Leigh, the record owner of the property, and an examination of the conditions were made. According to Mr. Hornbuckle's statement, he and his associates are purchasing from S. W. Leigh the present owner, the old mill, and the water right decreed in the Coal creek decree to the Cedar Milling Company. This right is mentioned under the Coal Creek Decree on page 8.

Prior to one year ago, the West Field Irrigation Company and Cedar City Corporation, diverted water from Coal creek at a point opposite and slightly below the point of return of the water from the old mill. Apparently, this diversion has been difficult to maintain on account of the deep channel filled with large boulders. During high water and flood periods the diverting dam has in the past been carried away. Approximately one year ago the West Field Irrigation Company without making Application for change of point of diversion in this office, diverted the water from Coal creek into the old diversion canal of West Field Irrigation Co., approximately 700 or 800 ft. upstream from the point of return of the mill water. Diversion at the latter point can be better maintained than where the water was formerly diverted at the old mill. The owners of the old mill right contend that their right is still good, and that they expect to divert the water to generate power for milling purposes as formerly. To this, it is claimed the West Field Irrigation Co. objects.

Mr. E. W. Leigh, a member of the Board of Directors of the West Field Irrigation Co., was contacted by phone and asked for his objections to this procedure. I was informed the West Field Irrigation Co. had encouragement from this office approximately two years ago to effect the change of the point of diversion, and did not deem it necessary to apply to this office for a change of the point of diversion. The said Irrigation Company contend the mill right was abandoned.

Application for
It appears the West Field Irrigation Company having filed no/change

It appears the right has been decreed to the Milling Company and there is a question as to whether or not they have forfeited the right by nonuse. It appears this would have to be established before contention of the West Field

of the point of diversion, has no right to insist upon the water being changed in the South Field Irrigation canal. Mr. Hornbuckle states that the Water Commissioner is willing to turn the water to him any time he requests the same. It appears it is then up to the West Field Irrigation Co. to show that the Milling Company has no rights, and to ask for a change of the point of diversion before they can insist the water be turned into the present diversion.

Coal Creek Distribution
7/16/37